

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:07CR24-RLV

UNITED STATES OF AMERICA,)
 Plaintiff,)
)
)
 vs.)
)
LUN WAI NG,)
 Defendant.)
)
)
_____)

ORDER

THIS MATTER is before the Court upon the Defendant's Motion To Proceed In Forma Pauperis, filed 10 March 2008. Defendant pled guilty to various violations of federal law on 1 November 2007. Sentencing was held on 19 February 2008 and Judgment was entered on 26 February 2008. Defendant was sentenced to a term of 24 months. Furthermore, Defendant was represented by a privately retained defense attorney, Deke Falls, who is still attorney of record and who also filed Defendant's Motion To Proceed In Forma Pauperis. The Defendant gave his notice of appeal in this case on 10 March 2008.

The Defendant now seeks permission to proceed on appeal in forma pauperis. However, Defendant fails to provide the Court with an affidavit as required by 28 U.S.C. § 1915. Defendant is referred to § 1915(a)(1) which reads in pertinent part,

...[A]ny court of the United States may authorize the commencement, prosecution or defense of any suit, action, or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give

security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

Other than his own representations of indigence, the Defendant has failed to submit any proof of his poverty, such as a certified copy of his inmate trust account statement, or any other document which could support his lack of funds. Based upon the lack of information, the Court cannot determine with any degree of certainty that the Defendant is unable to pay the costs associated with his appeal. Therefore, the Court will hold the Defendant's IFP Motion in abeyance until such time as the Defendant provides the missing financial information in support of his allegation of poverty.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the defendant's Motion To Proceed In Forma Pauperis is held in **ABEYANCE;**
2. That within thirty (30) days of the date of this Order, the Defendant shall submit to the Court a certified copy of his inmate trust account statement. Failure to submit the requested information as herein directed could result in the denial of Defendant's IFP Motion.
3. That the Clerk shall send copies of this Order to the Defendant; and to the Clerk of the Fourth Circuit Court of Appeals.

Signed: April 8, 2008



Richard L. Voorhees
United States District Judge

